

Dear Mr. Dowdy:

Thank you for your presentation before the Mississippi River Commission during the public meeting held in Cairo, Illinois, on March 4, 2002. In your formal statement you discussed (a) funding, capability, and the use of funds; (b) the annual herbicide program; (c) needed reconnaissance of the Castor River; (d) regulatory delays with the Highway 412 permit application; and (e) the need for clearing and dredging in the floodway area of northeast Arkansas.

The Commission recognizes your concerns regarding annual funding levels of the St. Francis Basin maintenance project. We also recognize your efforts and those of your board in securing additional funding for the project. The Corps will continue to efficiently execute work with you in the St. Francis Basin to the extent funding and relative priorities of work permit.

In regard to the annual herbicide program, the Memphis District currently has a multi-year indefinite delivery, indefinite quantity aerial herbicide contract. A delivery order was issued for herbicide application prior to the tragic events of September 11, 2001. As a result of those events, all aircraft were grounded till after October 1. Since herbicides do not normally work well if applied after October 1, the delivery order was cancelled. The Memphis District will, however, continue to work this program and execute needed maintenance based on available funding and relative priority of work.

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Regarding your request for reconnaissance work on the Castor River, the Memphis District has a review of this channel scheduled for this fiscal year. If work is necessary, it will be scheduled based on available funding and relative priority of work.

As for your concerns pertaining to permit processing, although the Corps is responsible for issuing Section 404 permits, this work involves coordination and gathering information from other agencies and interested people. The Corps continues to look for ways to improve our communication, coordination, and relationships with all stakeholders in an effort to minimize delays.

The Memphis District has issued four permits for the U.S. Highway 412 improvement project. An application for the majority of the work, from Hayti to Kennett, was received on August 13, 1999. A public notice was issued on August 24, 1999, with the close of comments on September 23, 1999. Section 401 water quality certification was received from the Missouri Department of Natural Resources (MDNR) on January 5, 2000. The unsigned permit was sent to the applicant on January 18, 2000, with the permit being issued on February 9, 2000. The delay in issuing the permit was primarily due to waiting for Section 401 water quality certification from MDNR. Section 401 of the Clean Water Act requires that "any applicant for a Federal license or permit to conduct any activity . . . which may result in any discharge into the navigable waters [which has been defined as waters of the U.S], shall provide the . . . permitting agency a certification from the State in which the discharge originates." The Corps regulations issued in the Federal Register Volume 51, No. 219, § 325.2(b) (ii) dated November 13, 1986, states in part that "No permit will be granted until required certification has been obtained." Any conditions included in the State's certification become a part of the permit.

The Memphis District regulatory staff has worked with the applicant and MDNR to attempt to reach a set of conditions that will protect the waters of the United States within the State of Missouri and yet allow the continued maintenance of the ditch in question. One such modification was made which further reduced the width of the vegetation buffer strips required on both sides

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of the new channel. The most recent proposal to further modify the conditions was not from MDNR, but from the Memphis District in response to your concerns. It should be noted when this was proposed to MDNR, the contact person was not prepared to modify the conditions, as proposed.

A recent compliance inspection of the permit right-of-way revealed that the project is well underway. Ditch No. 74 has been relocated from the eastern end to near SR A. The original ditch has been filled. The Memphis District staff is willing to work with the Missouri Department of Transportation, Little River, and MDNR to obtain an appropriate resolution to your concerns.

With regard to your concern for your downstream neighbors in northeast Arkansas, the Memphis District is continuing to review ditches in northeast Arkansas for channel flow restrictions and other conditions necessitating additional work in the area.

Thank you again for your presentation. The Commission appreciates receiving your comments and will be pleased to hear from you at our future public meetings.

Sincerely,

Edwin J. Arnold, Jr.
Brigadier General, U.S. Army
President, Mississippi River
Commission